

**C. MICHAEL WELDON**  
*Attorney-at-Law*  
250 Delido Court  
Punta Gorda, Florida 33950  
October 7, 2004

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OCT 11 2004

PUBLIC SERVICE  
COMMISSION

941.639.1513

Licensed in Kentucky

Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
P.O. Box 615  
Frankfort, KY 40602-0615

Re: Case No. 2004-00331  
Southern Madison Water District  
Motion for Full Intervention

Dear Ms. O'Donnell:

Enclosed for filing please find the original and ten copies of our above referenced pleading in the referenced case, **IN THE MATTER OF THE JOINT APPLICATION OF BEREA COLLEGE AND THE CITY OF BEREA FOR AN ORDER AUTHORIZING THE TRANSFER OF UTILITY ASSETS PURSUANT TO KRS 278.020(5) AND (6).**

Would you please be so kind as to return the enclosed, extra copy of this pleading, date-stamped as to your receipt and filing of same, in the enclosed, self-addressed, stamped envelope? Please discard any of the enclosed copies which you do not require for your filing purposes.

Thank you very much for your assistance.

Sincerely,



C. MICHAEL WELDON

cc: Southern Madison Water District (w/ encl.)  
Hon. James T. Gilbert (w/ encl.)  
Hon. Judge B. Wilson (w/ encl.)  
Hon. James H. Newberry (w/ encl.)

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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IN THE MATTER OF THE JOINT APPLICATION )  
OF BEREA COLLEGE AND THE CITY OF BEREA )  
FOR AN ORDER AUTHORIZING THE TRANSFER )  
OF UTILITY ASSETS PURSUANT TO )  
KRS 278.020(5) AND (6) )

CASE NO. 2004-00331

MOTION OF SOUTHERN MADISON WATER DISTRICT  
FOR  
FULL INTERVENTION

Comes Southern Madison Water District ("SMWD"), by Counsel, and hereby moves the Commission for entry of an Order granting SMWD leave for full intervention in this proceeding, pursuant to 807 KAR 5:001 Section 3 (8), in that SMWD has a special interest herein which is not otherwise adequately represented or fully protected.

In support whereof, SMWD states as follows:

1. SMWD is a KRS Chapter 74 Water District, in existence continuously for thirty-five years, currently distributing potable water to 4,019 homes and businesses in southern Madison County, Kentucky.
2. During the entire existence of SMWD, Berea College Utilities has been the sole-source provider of treated water for distribution to SMWD's customers pursuant to a series of Water Purchase Agreements ("Water Supply Contracts"), the currently effective of such agreements being attached as Exhibit H to the "Utility Asset Purchase Agreement", attached to the Application herein as Exhibit D.
3. For more than the past five years, SMWD and Berea College Utilities have participated in periodic and informal discussions and negotiations for the purpose of entering into an updated Water Purchase Agreement, more accurately reflecting the current business relationship between said parties. Based upon information supplied by Berea College Utilities, SMWD currently purchases between one-third and one-half of all treated water produced by Berea College Utilities.
4. SMWD has no current expectation that it will take a position adverse to any of the relief sought in the Joint Petition, as set forth and explained therein. However, due to the crucial nature of the business

relationship between SMWD and Berea College Utilities and the equally crucial nature of the business relationship to be with the City of Berea, SMWD believes, upon advice of Counsel, that it is necessary that it be granted the status of a party pursuant to full intervention, entitled to be served with filed testimony, exhibits, pleadings, correspondence and all other documents submitted by parties. Possession of such information will enable SMWD to keep currently advised of all additions, changes, explanations, amendments and modifications effecting the positions of, or relief sought by, the parties hereto. Likewise, it will enable SMWD to keep apprised of any shortcomings or potential pitfalls perceived by Commission Staff.

5. The special interest of SMWD in this proceeding is magnified in that represents the interests of its 4,019 customers and the many thousands of citizens in southern Madison County and the surrounding areas who are thereby provided with potable water, a service at the very essence of the issues presented herein.

#### TIMELINESS OF MOTION

Based upon telephone consultation by Counsel with Commission Staff on October 5, 2004, Counsel believes this Motion to be timely made. However, in the event that it is not timely submitted, Counsel states as follows as good cause why the foregoing Motion should, nonetheless, be given full consideration:

6. After approximately 14 years as General Counsel for SMWD, effective June 30, 2004, I resigned from that position in conjunction with my permanent relocation to Punta Gorda, FL.

7. On about September 13, 2004, I learned that SMWD had not yet retained new legal counsel and I offered to act temporarily in that position until acceptable replacement legal counsel could be located and retained. On September 21, 2004, I was again retained as General Counsel for SMWD, as outlined herein, and I was advised of that action on or about September 22, 2004.

8. By US Mail postmarked September 28, 2004, SMWD forwarded to me the letter dated September 1, 2004 from Hon. Judge B. Wilson, General Counsel for Berea College (Exhibit G to its joint Application herein), which set forth a "PUBLIC NOTICE" advising that the parties hereto would be filing

this proceeding to seek the Commission's approval of the Utility Asset Purchase Agreement (Exhibit D to the joint Application herein). I received said mail and letter on October 4, 2004, from which I first learned the case number of this proceeding.

9. From August 13, 2004 through September 26, 2004, Counsel's residence, Punta Gorda, FL, was either directly hit or narrowly missed but significantly damaged by three hurricanes, Charley (8/13/04), Frances (9/4/04) and Jeanne (9/25-26/04). In addition, Counsel evacuated to distant temporary housing from September 10 through September 13, 2004 a predicted direct hit from hurricane Ivan. During this period of time, US Mail service was nonexistent or delayed as the Punta Gorda Post Office was destroyed and continues to do business from temporary facilities located in tents, vehicles and a mobile home located in its parking lot. Telephone service was nonexistent for 7-10 days and, otherwise sporadic until approximately September 1, 2004 and Counsel was without internet service until October 1, 2004. In summary, it was, at best, difficult and , at worst, impossible for SMWD and its legal Counsel to communicate from August 13, 2004 until October 1, 2004.

WHEREFORE, SMWD respectfully moves the Commission to grant SMWD full intervention as a party hereto.

SOUTHERN MADISON WATER DISTRICT  
P.O. Box 220  
Berea, KY 40403

By: 

C. Michael Weldon  
Counsel for Southern Madison Water District  
250 Delido Court  
Punta Gorda, FL 33950

CERTIFICATE OF SERVICE

I hereby certify that the original and ten copies of the foregoing Motion were mailed to the Public Service Commission, and that one true copy of same was mailed to Hon. James T. Gilbert, Coy, Gilbert & Gilbert, 210 North Second Street, Richmond, KY 40475, Counsel for the City of Berea; Hon. Judge B. Wilson, CPO 2211, Berea College, Berea, KY 40403, and to Hon. James H. Newberry, 250 West Main Street, Suite 1600, Lexington, KY 40507, Counsel for Berea College; and to Hon. Greg Stumbo, Kentucky Attorney General, and Hon. David Edward Spenard, Asst. Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, KY 40601-8204, through the US Postal Service on this 7 day of October, 2004, postage prepaid.



C. Michael Weldon  
Counsel for Southern Madison Water District  
250 Delido Court  
Punta Gorda, FL 33950



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